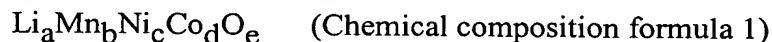


**AMENDMENTS TO THE CLAIMS:**

Claims 1-6 (Canceled)

7. (Currently amended) A positive active material comprising:

a composite oxide which comprises lithium (Li), manganese (Mn), nickel (Ni), cobalt (Co), and oxygen (O) and is represented by the following chemical composition formula:



wherein  $0 < a \leq 1.3$

$|b-c| \leq 0.05$

$0.6 \leq d < 1$

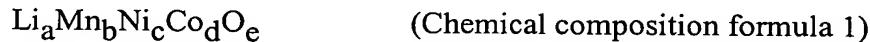
$1.7 \leq e \leq 2.3$

$b+c+d=1$ , and

wherein said composite oxide comprises a single-phase structure belonging to space group R3-m ~~an oxide which is other than  $\text{LiMn}_{0.05}\text{Ni}_{0.05}\text{Co}_{0.9}\text{O}_2$ , and  $b \neq 0.1$ .~~

8. (Currently amended) A positive active material comprising:

a composite oxide which comprises lithium (Li), manganese (Mn), nickel (Ni), cobalt (Co), and oxygen (O) and is represented by the following chemical composition formula:



wherein  $0 < a \leq 1.3$

$|b-c| < 0.03$

$0.8 \leq d < 1$

$1.7 \leq e \leq 2.3$

$b+c+d=1$ , and

wherein said composite oxide comprises a single-phase structure belonging to space group R3-m ~~an oxide which is other than  $\text{LiMn}_{0.05}\text{Ni}_{0.05}\text{Co}_{0.9}\text{O}_2$ , and  $b \neq 0.1$ .~~

9. (Previously presented) A non-aqueous electrolyte battery, comprising:

- a positive electrode including the positive active material of claim 7;
- a negative electrode; and
- a non-aqueous electrolyte.

10. (Previously presented) A non-aqueous electrolyte battery, comprising:

- a positive electrode including the positive active material of claim 8;
- a negative electrode; and
- a non-aqueous electrolyte.

11. (Previously presented) A non-aqueous electrolyte battery, comprising:

- a positive electrode, a negative electrode, and a non-aqueous electrolyte, wherein the positive electrode comprises a lithium-manganese oxide (A) having a spinel structure and represented by the general formula  $\text{LiMn}_2\text{O}_4$  and a lithium-nickel-manganese-cobalt composite oxide (B) having an  $\alpha\text{-NaFeO}_2$  layer structure and represented by the general formula  $\text{Li}_a\text{Mn}_b\text{Ni}_c\text{Co}_d\text{O}_e$ ,

wherein a weight ratio of (A) to (B) is in a range from 5:95 to 10:90, and  
wherein

$$0 < a \leq 1.3$$

$$|b-c| \leq 0.05$$

$$0.6 \leq d < 1$$

$$1.7 \leq e \leq 2.3$$

$$b+c+d=1.$$

12. (Previously presented) A non-aqueous electrolyte battery, comprising:

- a positive electrode, a negative electrode, and a non-aqueous electrolyte, wherein the positive electrode comprises a lithium-manganese oxide (A) having a spinel structure and represented by the general formula  $\text{LiMn}_2\text{O}_4$  and a lithium-nickel-manganese-

cobalt composite oxide (B) having an  $\alpha$ -NaFeO<sub>2</sub> layer structure and represented by the general formula Li<sub>a</sub>Mn<sub>b</sub>Ni<sub>c</sub>Co<sub>d</sub>O<sub>e</sub>,

wherein a weight ratio of (A) to (B) is in a range from 5:95 to 10:90, and  
wherein

$$0 < a \leq 1.3$$

$$|b-c| < 0.03$$

$$0.8 \leq d < 1$$

$$1.7 \leq e \leq 2.3$$

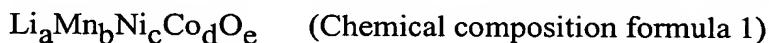
$$b+c+d=1.$$

13. (Previously presented) The non-aqueous electrolyte battery of claim 19, wherein the positive electrode includes (A) and the (B) in a proportion (weight ratio ) of from 5:95 to 90:10.

14. (Previously presented) The non-aqueous electrolyte battery of claim 20, wherein the positive electrode includes (A) and the (B) in a proportion (weight ratio ) of from 5:95 to 90:10.

15. (Currently amended) A positive active material comprising:

a composite oxide which comprises lithium (Li), manganese (Mn), nickel (Ni), cobalt (Co), and oxygen (O) and is represented by the following chemical composition formula:



wherein  $0 < a \leq 1.3$

$$|b-c| \leq 0.05$$

$$0.6 \leq d \leq 0.833$$

$$1.7 \leq e \leq 2.3$$

$$b+c+d=1, \text{ and}$$

wherein said composite oxide comprises a single-phase structure belonging to space group R3-m b $\neq$ 0.1.

16. (Currently amended) A positive active material comprising:

a composite oxide which comprises lithium (Li), manganese (Mn), nickel (Ni), cobalt (Co), and oxygen (O) and is represented by the following chemical composition formula:



wherein  $0 < a \leq 1.3$

$|b-c| < 0.03$

$0.8 \leq d \leq 0.833$

$1.7 \leq e \leq 2.3$

$b+c+d=1$ , and

wherein said composite oxide comprises a single-phase structure belonging to space group R3-m b≠0.1.

17. (Previously presented) A non-aqueous electrolyte battery, comprising:

a positive electrode including the positive active material of claim 15;  
a negative electrode; and  
a non-aqueous electrolyte.

18. (Previously presented) A non-aqueous electrolyte battery, comprising:

a positive electrode including the positive active material of claim 16;  
a negative electrode; and  
a non-aqueous electrolyte.

19. (Previously presented) A non-aqueous electrolyte battery, comprising:

a positive electrode, a negative electrode, and a non-aqueous electrolyte,  
wherein the positive electrode comprises a lithium-manganese oxide (A) having a spinel structure and represented by the general formula  $\text{LiMn}_2\text{O}_4$  and a lithium-nickel-manganese-cobalt composite oxide (B) having an  $\alpha\text{-NaFeO}_2$  layer structure and represented by the general formula  $\text{Li}_a\text{Mn}_b\text{Ni}_c\text{Co}_d\text{O}_e$ ,

wherein

$$0 < a \leq 1.3$$

$$|b-c| \leq 0.05$$

$$0.9 \leq d \leq 1$$

$$1.7 \leq e \leq 2.3$$

$$b+c+d=1$$

$$b < 0.05.$$

20. (Previously presented) A non-aqueous electrolyte battery, comprising:

a positive electrode, a negative electrode, and a non-aqueous electrolyte,

wherein the positive electrode comprises a lithium-manganese oxide (A) having a spinel structure and represented by the general formula  $\text{LiMn}_2\text{O}_4$  and a lithium-nickel-manganese-cobalt composite oxide (B) having an  $\alpha\text{-NaFeO}_2$  layer structure and represented by the general formula  $\text{Li}_a\text{Mn}_b\text{Ni}_c\text{Co}_d\text{O}_e$ ,

wherein

$$0 < a \leq 1.3$$

$$|b-c| < 0.03$$

$$0.9 \leq d \leq 1$$

$$1.7 \leq e \leq 2.3$$

$$b+c+d=1$$

$$b < 0.05.$$

21. (New) The non-aqueous electrolyte battery of claim 11, wherein said composite oxide comprises a single-phase structure belonging to space group R3-m.

22. (New) The non-aqueous electrolyte battery of claim 12, wherein said composite oxide comprises a single-phase structure belonging to space group R3-m.

23. (New) The non-aqueous electrolyte battery of claim 19, wherein said composite oxide comprises a single-phase structure belonging to space group R3-m.

24. (New) The non-aqueous electrolyte battery of claim 20, wherein said composite oxide comprises a single-phase structure belonging to space group R3-m.